

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RAAFAT G. GERGES DBA DANIEL'S
PHARMACY
12730 Heacock Street, Ste. 1
Moreno Valley, CA 92553**

Pharmacy Permit No. PHY 47339

and

**RAAFAT GEORGE GERGES
14405 Ashton Lane
Riverside, CA 92508**

Pharmacist License No. RPH 45091

Case No. 5224

OAH No. 2014120737

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT RAAFAT GEORGE
GERGES ONLY**

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 2, 2015.

It is so ORDERED September 2, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

13 **RAAFAT G. GERGES DBA DANIEL'S**
PHARMACY
14 **12730 Heacock Street, Ste. 1**
Moreno Valley, CA 92553

15 **Pharmacy Permit No. PHY 47339**

16 **and**

17 **RAAFAT GEORGE GERGES**
18 **14405 Ashton Lane**
Riverside, CA 92508

19 **Pharmacist License No. RPH 45091**

20 Respondents.
21

Case No. 5224

OAH No. 2014120737

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy Attorney
28 General.

1 production of documents; the right to reconsideration and court review of an adverse decision;
2 and all other rights accorded by the California Administrative Procedure Act and other applicable
3 laws.

4 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
5 every right set forth above.

6 CULPABILITY

7 9. Respondents understand that the charges and allegations in First Amended
8 Accusation No. 5224, if proven at a hearing, constitute cause for imposing discipline upon
9 Pharmacy Permit No. PHY 47339 and Pharmacist License No. RPH 45091.

10 10. For the purpose of resolving the First Amended Accusation without the expense and
11 uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could
12 establish a factual basis for the charges in First Amended Accusation No. 5224 and that those
13 charges constitute cause for discipline. Respondents hereby give up their right to contest that
14 cause for discipline exists based on those charges.

15 11. Respondent Daniel's Pharmacy understands that by signing this stipulation it enables
16 the Board to issue an order accepting the surrender of Pharmacy Permit No. PHY 47339 without
17 further process.

18 12. Respondent Gerges agrees that his Pharmacist License No. RPH 45091 is subject to
19 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
20 Disciplinary Order below.

21 CONTINGENCY

22 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
23 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
24 communicate directly with the Board regarding this stipulation, without notice to or participation
25 by Respondents or their counsel. By signing the stipulation, Respondents understand and agree
26 that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
27 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
28 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for

1 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
2 not be disqualified from further action by having considered this matter.

3 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
5 signatures thereto, shall have the same force and effect as the originals.

6 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 16. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or formal proceeding, issue and enter the following Order:

14 **ORDER**

15 **IT IS HEREBY ORDERED** that Pharmacy Permit No. PHY 47339, issued to Respondent
16 Raafat G. Gerges doing business as Daniel's Pharmacy (Respondent Daniel's Pharmacy), is
17 surrendered and accepted by the Board of Pharmacy.

18 1. Respondent Daniel's Pharmacy surrenders Pharmacy Permit No. PHY 47339 as of
19 the effective date of this Decision. Respondent Daniel's Pharmacy shall relinquish the premises
20 wall license and renewal license to the Board within ten (10) days of the effective date of this
21 Decision.

22 2. The surrender of Respondent Daniel's Pharmacy's license and the acceptance of the
23 surrendered license by the Board shall constitute the imposition of discipline against Respondent
24 Daniel's Pharmacy. This Decision constitutes a record of discipline and shall become a part of
25 Respondent Daniel's Pharmacy license history with the Board.

26 3. Respondent Daniel's Pharmacy shall, within ten (10) days of the effective date,
27 arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the Board
28 of all controlled substances and dangerous drugs and devices, as well as, the records of

1 acquisition and disposition for those dangerous drugs. Respondent Daniel's Pharmacy shall
2 further provide written proof of such disposition and submit a completed Discontinuance of
3 Business form according to Board guidelines.

4 4. Respondent Daniel's Pharmacy shall also, by the effective date of this Decision,
5 arrange for the continuation of care for existing patients of the pharmacy by, at minimum,
6 providing a written notice to existing patients that specifies the anticipated closing date of the
7 pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care,
8 and by cooperating as may be necessary in the transfer of records or prescriptions for existing
9 patients. Within five days of its notice to the pharmacy's existing patients, Respondent Daniel's
10 Pharmacy shall provide a copy of the written notice to the Board. For the purposes of this
11 provision, "ongoing patients" means those patients for whom the pharmacy has on file a
12 prescription with one or more refills outstanding, or for whom the pharmacy has filled a
13 prescription within the preceding sixty (60) days.

14 5. If Respondent Daniel's Pharmacy ever applies for an application for a licensed
15 premises or a petition for reinstatement in the State of California, the Board shall treat it as a new
16 application for licensure. Respondent Daniel's Pharmacy must comply with all the laws,
17 regulations, and procedures for licensure in effect at the time the application or petition is filed,
18 and all of the charges and allegations contained in First Amended Accusation No. 5224 shall be
19 deemed to be true, correct and admitted by Respondent when the Board determines to grant or
20 deny the application or petition.

21 **IT IS FURTHER HEREBY ORDERED** that Pharmacist License No. RPH 45091 issued
22 to Raafat George Gerges (Respondent Gerges) is revoked. However, the revocation is stayed and
23 Respondent Gerges is placed on probation for five (5) years on the following terms and
24 conditions:

25 **1. Suspension**

26 As part of probation, Respondent Gerges is suspended from the practice of pharmacy until
27 he provides proof of completion of six (6) hours of remedial education on the topic of
28 corresponding responsibility.

1 During suspension, Respondent Gerges shall not enter any pharmacy area or any portion of
2 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
3 of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and
4 devices or controlled substances are maintained. Respondent Gerges shall not practice pharmacy
5 nor do any act involving drug selection, selection of stock, manufacturing, compounding,
6 dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to
7 any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing
8 of dangerous drugs and devices or controlled substances.

9 Respondent Gerges shall not engage in any activity that requires the professional judgment
10 of a pharmacist. Respondent Gerges shall not direct or control any aspect of the practice of
11 pharmacy. Respondent Gerges shall not perform the duties of a pharmacy technician or a
12 designated representative for any entity licensed by the Board.

13 Failure to comply with this suspension shall be considered a violation of probation.

14 **2. Obey All Laws**

15 Respondent Gerges shall obey all state and federal laws and regulations.

16 Respondent Gerges shall report any of the following occurrences to the Board, in writing,
17 within seventy-two (72) hours of such occurrence:

- 18 • an arrest or issuance of a criminal complaint for violation of any provision of the
19 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
20 substances laws
- 21 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
22 criminal complaint, information or indictment
- 23 • a conviction of any crime
- 24 • discipline, citation, or other administrative action filed by any state or federal agency
25 which involves respondent's pharmacist license or which is related to the practice of
26 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
27 for any drug, device or controlled substance.

28 Failure to timely report such occurrence shall be considered a violation of probation.

1 **3. Report to the Board**

2 Respondent Gerges shall report to the Board quarterly, on a schedule as directed by the
3 Board or its designee. The report shall be made either in person or in writing, as directed.
4 Among other requirements, Respondent Gerges shall state in each report under penalty of perjury
5 whether there has been compliance with all the terms and conditions of probation. Failure to
6 submit timely reports in a form as directed shall be considered a violation of probation. Any
7 period(s) of delinquency in submission of reports as directed may be added to the total period of
8 probation. Moreover, if the final probation report is not made as directed, probation shall be
9 automatically extended until such time as the final report is made and accepted by the Board.

10 **4. Interview with the Board**

11 Upon receipt of reasonable prior notice, Respondent Gerges shall appear in person for
12 interviews with the Board or its designee, at such intervals and locations as are determined by the
13 Board or its designee. Failure to appear for any scheduled interview without prior notification to
14 Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its
15 designee during the period of probation, shall be considered a violation of probation.

16 **5. Cooperate with Board Staff**

17 Respondent Gerges shall cooperate with the Board's inspection program and with the
18 Board's monitoring and investigation of Respondent Gerges' compliance with the terms and
19 conditions of his probation. Failure to cooperate shall be considered a violation of probation.

20 **6. Continuing Education**

21 Respondent Gerges shall provide evidence of efforts to maintain skill and knowledge as a
22 pharmacist as directed by the Board or its designee.

23 **7. Notice to Employers**

24 During the period of probation, Respondent Gerges shall notify all present and prospective
25 employers of the Decision in case number 5224 and the terms, conditions and restrictions
26 imposed on Respondent Gerges by the Decision, as follows:

27 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of
28 Respondent Gerges undertaking any new employment, Respondent Gerges shall cause his direct

1 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
2 respondent's tenure of employment) and owner to report to the Board in writing acknowledging
3 that the listed individual(s) has/have read the Decision in case number 5224, and terms and
4 conditions imposed thereby. It shall be Respondent Gerges' responsibility to ensure that his
5 employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

6 If Respondent Gerges works for or is employed by or through a pharmacy employment
7 service, Respondent Gerges must notify his direct supervisor, pharmacist-in-charge, and owner at
8 every entity licensed by the Board of the terms and conditions of the Decision in case number
9 5224 in advance of the Respondent commencing work at each licensed entity. A record of this
10 notification must be provided to the Board upon request.

11 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen
12 (15) days of Respondent Gerges undertaking any new employment by or through a pharmacy
13 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
14 service to report to the Board in writing acknowledging that he has read the Decision in case
15 number 5224 and the terms and conditions imposed thereby. It shall be Respondent Gerges'
16 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
17 acknowledgment(s) to the Board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those
19 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time,
22 part-time, temporary, relief or pharmacy management service as a pharmacist or any
23 position for which a pharmacist license is a requirement or criterion for employment,
24 whether the respondent is an employee, independent contractor or volunteer.

25 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
26 **Designated Representative-in-Charge, or Serving as a Consultant**

27 During the period of probation, Respondent Gerges shall not supervise any intern
28 pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity

1 licensed by the Board nor serve as a consultant unless otherwise specified in this order.

2 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
3 of probation.

4 **9. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, Respondent Gerges shall
6 pay to the Board its costs of investigation and prosecution in the amount of \$17,136. Respondent
7 shall make said payments as follows: On the effective date of the Decision, and on the first of
8 each month thereafter, Respondent Gerges shall pay to the Board \$300.00 per month until the
9 total costs have been paid in full.

10 There shall be no deviation from this schedule absent prior written approval by the Board or
11 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
12 probation.

13 The filing of bankruptcy by Respondent shall not relieve respondent of his responsibility to
14 reimburse the Board its costs of investigation and prosecution.

15 **10. Probation Monitoring Costs**

16 Respondent Gerges shall pay any costs associated with probation monitoring as determined
17 by the Board each and every year of probation. Such costs shall be payable to the Board on a
18 schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as
19 directed shall be considered a violation of probation.

20 **11. Status of License**

21 Respondent Gerges shall, at all times while on probation, maintain an active, current license
22 with the Board, including any period during which suspension or probation is tolled. Failure to
23 maintain an active, current license shall be considered a violation of probation.

24 If Respondent Gerges' license expires or is cancelled by operation of law or otherwise at
25 any time during the period of probation, including any extensions thereof due to tolling or
26 otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms and
27 conditions of this probation not previously satisfied.

28

1 **12. License Surrender While on Probation/Suspension**

2 Following the effective date of this Decision, should Respondent Gerges cease practice due
3 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may tender his license to the Board for surrender. The Board or its designee shall
5 have the discretion whether to grant the request for surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
7 Gerges will no longer be subject to the terms and conditions of probation. This surrender
8 constitutes a record of discipline and shall become a part of the respondent's license history with
9 the Board.

10 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
11 the Board within ten (10) days of notification by the Board that the surrender is accepted.
12 Respondent Gerges may not reapply for any license from the Board for three (3) years from the
13 effective date of the surrender. Respondent Gerges shall meet all requirements applicable to the
14 license sought as of the date the application for that license is submitted to the Board, including
15 any outstanding costs.

16 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
17 **Employment**

18 Respondent Gerges shall notify the Board in writing within ten (10) days of any change of
19 employment. Said notification shall include the reasons for leaving, the address of the new
20 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
21 Gerges shall further notify the Board in writing within ten (10) days of a change in name,
22 residence address, mailing address, or phone number.

23 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
24 phone number(s) shall be considered a violation of probation.

25 **14. Tolling of Probation**

26 Except during periods of suspension, Respondent Gerges shall, at all times while on
27 probation, be employed as a pharmacist in California for a minimum of forty (40) hours per
28 calendar month. Any month during which this minimum is not met shall toll the period of

1 probation, i.e., the period of probation shall be extended by one month for each month during
2 which this minimum is not met. During any such period of tolling of probation, Respondent
3 Gerges must nonetheless comply with all terms and conditions of probation.

4 Should Respondent Gerges, regardless of residency, for any reason (including vacation)
5 cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in
6 California, Respondent Gerges must notify the Board in writing within ten (10) days of the
7 cessation of practice, and must further notify the Board in writing within ten (10) days of the
8 resumption of practice. Any failure to provide such notification(s) shall be considered a violation
9 of probation.

10 It is a violation of probation for Respondent Gerges' probation to remain tolled pursuant to
11 the provisions of this condition for a total period, counting consecutive and non-consecutive
12 months, exceeding thirty-six (36) months.

13 "Cessation of practice" means any calendar month during which respondent is
14 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
15 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
16 month during which respondent is practicing as a pharmacist for at least forty (40)
17 hours as a pharmacist as defined by Business and Professions Code section 4000 et
18 seq.

19 **15. Violation of Probation**

20 If Respondent Gerges has not complied with any term or condition of probation, the Board
21 shall have continuing jurisdiction over Respondent Gerges, and probation shall automatically be
22 extended, until all terms and conditions have been satisfied or the Board has taken other action as
23 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
24 probation, and to impose the penalty that was stayed.

25 If Respondent Gerges violates probation in any respect, the Board, after giving Respondent
26 Gerges notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
27 order that was stayed. Notice and opportunity to be heard are not required for those provisions
28 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of

1 the license. If a petition to revoke probation or an accusation is filed against Respondent Gerges
2 during probation, the Board shall have continuing jurisdiction and the period of probation shall be
3 automatically extended until the petition to revoke probation or accusation is heard and decided.

4 **16. Completion of Probation**

5 Upon written notice by the Board or its designee indicating successful completion of
6 probation, Respondent Gerges' license will be fully restored.

7 **17. Community Services Program**

8 Within sixty (60) days of the effective date of this Decision, Respondent Gerges shall
9 submit to the Board or its designee, for prior approval, a community service program in which
10 Respondent Gerges shall provide free health-care related services on a regular basis to a
11 community or charitable facility or agency for at least twenty-five (25) hours per year of
12 probation. Within thirty (30) days of Board approval thereof, Respondent Gerges shall submit
13 documentation to the Board demonstrating commencement of the community service program. A
14 record of this notification must be provided to the Board upon request. Respondent Gerges shall
15 report on progress with the community service program in the quarterly reports. Failure to timely
16 submit, commence, or comply with the program shall be considered a violation of probation.

17 **18. Remedial Education**

18 Within sixty (60) days of the effective date of this Decision, Respondent Gerges shall
19 submit to the Board or its designee, for prior approval, an appropriate program of remedial
20 education related to dispensing controlled substances, and corresponding responsibility
21 therapeutics of controlled substances, particularly in opioid therapy. The program of remedial
22 education shall consist of at least twenty-five (25) hours, which shall be completed within the first
23 year of probation at Respondent's own expense. All remedial education shall be in addition to,
24 and shall not be credited toward, continuing education (CE) courses used for license renewal
25 purposes.

26 Failure to timely submit or complete the approved remedial education shall be considered a
27 violation of probation. The period of probation will be automatically extended until such
28 remedial education is successfully completed and written proof, in a form acceptable to the

1 Board, is provided to the Board or its designee.

2 Following the completion of each course, the Board or its designee may require the
3 Respondent, at his own expense, to take an approved examination to test the Respondent's
4 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
5 this failure shall be considered a violation of probation. Any such examination failure shall
6 require respondent to take another course approved by the Board in the same subject area.

7 **19. Supervised Practice**

8 During the period of probation, Respondent Gerges shall practice only under the
9 supervision of a licensed pharmacist not on probation with the Board. Upon and after the
10 effective date of this Decision, Respondent Gerges shall not practice pharmacy and his license
11 shall be automatically suspended until a supervisor is approved by the Board or its designee. The
12 supervision shall be as follows:

13 • Daily Review- Supervisor's review of probationer's daily activities within
14 24 hours.

15 "Daily review" as this term is used herein shall not require that the supervising pharmacist
16 be engaged in physical supervision of Respondent's activities in real time, but shall require that
17 the supervising pharmacist, by no later than close of business on each day following, review all
18 transactions performed by Respondent and records associated with those transactions to ensure
19 compliance with state and federal statutes and regulations and with the requirements of this
20 Decision.

21 The Board, or its designee, retains the discretion to increase the level of supervision during
22 Respondent's probation, if warranted by circumstances, or by violations or omissions discovered
23 during Daily Review, to any of the following:

- 24 • Continuous- At least 75% of a work week
25 • Substantial- At least 50% of a work week
26 • Partial- At least 25% of a work week

27 Within thirty (30) days of the effective date of this Decision, Respondent Gerges shall have
28 his supervisor submit notification to the Board in writing stating that the supervisor has read the

1 Decision in case number 5224 and is familiar with the required level of supervision as determined
2 by the Board. It shall be the Respondent's responsibility to ensure that his employer(s),
3 pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board.
4 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
5 acknowledgements to the Board shall be considered a violation of probation.

6 If Respondent Gerges changes employment, it shall be the Respondent's responsibility to
7 ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
8 acknowledgement(s) to the Board. Respondent Gerges shall have his new supervisor, within
9 fifteen (15) days after employment commences, submit notification to the Board in writing stating
10 the direct supervisor and pharmacist-in-charge have read the Decision in case number 5224 and is
11 familiar with the level of supervision as determined by the Board. Respondent Gerges shall not
12 practice pharmacy and his license shall be automatically suspended until the Board or its designee
13 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
14 submit timely acknowledgements to the Board shall be considered a violation of probation.

15 Within ten (10) days of leaving employment, Respondent Gerges shall notify the Board in
16 writing.

17 During suspension, Respondent Gerges shall not enter any pharmacy area or any portion of
18 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
19 of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and
20 devices or controlled substances are maintained. Respondent Gerges shall not practice pharmacy
21 nor do any act involving drug selection, selection of stock, manufacturing, compounding,
22 dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to
23 any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing
24 of dangerous drugs and controlled substances. Respondent Gerges shall not resume practice until
25 notified by the Board.

26 During suspension, Respondent Gerges shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent Gerges shall not direct or control any aspect
28 of the practice of pharmacy. Respondent Gerges shall not perform the duties of a pharmacy

1 technician or a designated representative for any entity licensed by the Board.

2 Subject to the above restrictions, Respondent may continue to own or hold an interest in
3 any licensed premises in which he holds an interest at the time this Decision becomes effective
4 unless otherwise specified in this order.

5 Failure to comply with this suspension shall be considered a violation of probation.

6 **20. No Ownership of Licensed Premises**

7 Respondent Gerges shall not own, have any legal or beneficial interest in, or serve as a
8 manager, administrator, member, officer, director, trustee, associate, or partner of any business,
9 firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent
10 Gerges shall sell or transfer any legal or beneficial interest in any entity licensed by the Board
11 within ninety (90) days following the effective date of this Decision and shall immediately
12 thereafter provide written proof thereof to the Board. Failure to timely divest any legal or
13 beneficial interest(s) or provide documentation thereof shall be considered a violation of
14 probation.

15 **21. Ethics Course**


16 Within sixty (60) calendar days of the effective date of this Decision, Respondent Gerges
17 shall enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or
18 its designee. Failure to initiate the course during the first year of probation, and complete it
19 within the second year of probation, is a violation of probation.

20 Respondent Gerges shall submit a certificate of completion to the Board or its designee
21 within five days after completing the course.

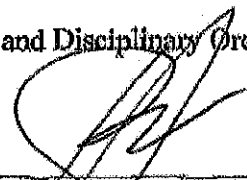
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Permit No. PHY 47339 and Pharmacist License No. RPH 45091. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.


DATED: 8/9/15 
RAAFAT G. GERGES, as an individual and as authorized agent on behalf of DANIEL'S PHARMACY Respondents

I have read and fully discussed with Respondents the terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/5/2015 
HERBERT WEINBERG Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 8/5/2015 Respectfully submitted,
KAMALA D. HARRIS Attorney General of California
JAMES M. LEDAKIS Supervising Deputy Attorney General

NICOLE R. TRAMA Deputy Attorney General Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 5224

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**FIRST AMENDED
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14405 Ashton Lane
18 Riverside, CA 92508

19 Pharmacist License No. RPH 45091

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
25 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
26 Affairs.

27 2. On or about October 3, 2005, the Board of Pharmacy issued Pharmacy Permit
28 Number PHY 47339 to Raafat G. Gerges to do business as Daniel's Pharmacy, with Raafat

1 Gerges as Pharmacist-in-Charge (Respondent). The Pharmacy Permit was in full force and effect
2 at all times relevant to the charges brought herein and expired on October 1, 2013, and has not
3 been renewed.

4 3. On or about March 9, 1992, the Board of Pharmacy issued Pharmacist License
5 Number RPH 45091 to Raafat George Gerges (Respondent). The Pharmacist License was in full
6 force and effect at all times relevant to the charges brought herein and will expire on January 31,
7 2017, unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
10 Consumer Affairs, under the authority of the following laws. All section references are to the
11 Business and Professions Code unless otherwise indicated.

12 5. Section 4011 of the Code provides that the Board shall administer and enforce both
13 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
14 Act [Health & Safety Code, § 11000 et seq.].

15 6. Section 4300(a) of the Code provides that every license issued by the Board may be
16 suspended or revoked.

17 7. Section 4300.1 of the Code states:

18 The expiration, cancellation, forfeiture, or suspension of a board-issued
19 license by operation of law or by order or decision of the board or a court of law,
20 the placement of a license on a retired status, or the voluntary surrender of a
21 license by a licensee shall not deprive the board of jurisdiction to commence or
proceed with any investigation of, or action or disciplinary proceeding against, the
licensee or to render a decision suspending or revoking the license.

22 STATUTORY PROVISIONS

23 8. Section 4022 of the Code states:

24 "Dangerous drug" or "dangerous device" means any drug or device unsafe
25 for self-use in humans or animals, and includes the following:

26 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

27 (b) Any device that bears the statement: "Caution: federal law restricts this
28 device to sale by or on the order of a _____," "Rx only," or words of similar import,

1 the blank to be filled in with the designation of the practitioner licensed to use or
2 order use of the device.

3 (c) Any other drug or device that by federal or state law can be lawfully
4 dispensed only on prescription or furnished pursuant to Section 4006.

5 9. Section 4113, subdivision (c) of the Code states: "The pharmacist-in-charge shall be
6 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining
7 to the practice of pharmacy."

8 10. Section 4301 of the Code states:

9 The board shall take action against any holder of a license who is guilty of
10 unprofessional conduct or whose license has been procured by fraud or
11 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
12 is not limited to, any of the following:

13

14 (c) Gross negligence.

15 (d) The clearly excessive furnishing of controlled substances in violation of
16 subdivision (a) of Section 11153 of the Health and Safety Code.

17

18 (j) The violation of any of the statutes of this state, of any other state, or of
19 the United States regulating controlled substances and dangerous drugs.

20

21 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
22 abetting the violation of or conspiring to violate any provision or term of this
23 chapter or of the applicable federal and state laws and regulations governing
24 pharmacy, including regulations established by the board or by any other state or
25 federal regulatory agency.

26

27 11. Section 4307(a) of the Code states that:

28 Any person who has been denied a license or whose license has been revoked
or is under suspension, or who has failed to renew his or her license while it was
under suspension, or who has been a manager, administrator, owner member, officer,
director, associate, or partner of any partnership, corporation, firm, or association
whose application for a license has been denied or revoked, is under suspension or
has been placed on probation, and while acting as the manger, administrator, owner,
member, officer, director, associate, or partner had knowledge or knowingly
participated in any conduct for which the license was denied, revoked, suspended, or
placed on probation, shall be prohibited from serving as a manger, administrator,

owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

12. Health and Safety Code section 11153 states in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

13. Health and Safety Code section 11173 states in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

....

REGULATORY PROVISIONS

14. Code of Federal Regulations, title 21, section 1306.04 states in pertinent part:

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

....

15. Code of Federal regulations, title 21, section 1306.11 states in part:

(a) A pharmacist may dispense directly a controlled substance listed in Schedule II that is a prescription drug as determined under section 503 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)) only pursuant to a written prescription signed by the practitioner, except as provided in paragraph (d) of this section. A paper prescription for a Schedule II controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy via facsimile equipment, provided that the original manually signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance, except as noted in paragraph (e), (f), or (g) of this section. The original prescription shall be maintained in accordance with §1304.04(h) of this chapter.

....

16. California Code of Regulations, title 16, section 1761 states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

COST RECOVERY

17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUGS

18. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

1 19. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code
2 section 11055(c)(8), and a dangerous drug pursuant to Business and Professions Code section
3 4022.

4 20. Morphine Sulfate, the generic name for MSContin and Avinza, is a Schedule II
5 controlled substance as designated by Health and Safety Code section 11055, subdivision
6 (b)(1)(L), and is a dangerous drug pursuant to Business and Professions Code section 4022.

7 21. Oxycodone, the generic name for Oxycontin, is a Schedule II controlled substance
8 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug
9 pursuant to Business and Professions Code section 4022.

10 22. Vicodin, a brand name for acetaminophen and hydrocodone bitartrate, is a Schedule
11 III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(4),
12 and a dangerous drug pursuant to Business and Professions Code section 4022.

13 **FACTUAL ALLEGATIONS**

14 23. At all times mentioned herein and from October 3, 2005 to February 18, 2014, Raafat
15 G. Gerges was the Pharmacist-in-Charge (Respondent PIC) of Daniel's Pharmacy (Respondent
16 Pharmacy) located in Moreno Valley, California.

17 24. In or around January 2013, the Board of Pharmacy initiated an investigation of
18 Respondents following notification from Cardinal Health that they suspended all sales of
19 controlled substances to Respondent Pharmacy due to a risk for potential diversion. The Board
20 inspector discovered that Respondents filled numerous prescriptions for patients and doctors
21 outside of Moreno Valley, that different patients had filled sequential prescriptions from the same
22 doctors at Respondent Pharmacy, and that Respondent filled prescriptions early.

23 25. Patient J.M., who resided in Los Angeles, lived approximately 67 miles from
24 Respondent Pharmacy. On January 6, 2011, Respondents filled RX No. 143202 for Dilaudid 4
25 mg and RX No. 143203 for Promethazine with Codeine 6.25-10 syp for patient J.M., who was
26 prescribed these drugs by P.A. S.W. located in Riverside, California. Patient J.M. paid cash for
27 the drugs.

28

1 26. Immediately after filling patient J.M.'s drugs, Respondents filled RX No. 143204 for
2 Dilaudid 4 mg and RX No. 143205 for Promethazine with Codeine 6.25-10 syp for patient R.C.,
3 who also resides in Los Angeles (approximately 68 miles from Respondent pharmacy) and who
4 was also prescribed the same drugs in the same dosages as patient J.M. by the same P.A. (P.A.
5 S.W.). Patient R.C. paid cash for the drugs.

6 27. Respondents also filled prescriptions for controlled substances to patients who were
7 doctor shopping.¹ Respondents did not review information from CURES or their own patient
8 profiles to determine that patients were doctor shopping, filling controlled substances early or
9 filling controlled substance prescriptions at multiple pharmacies.

10 PATIENT CA

11 28. Patient C.A., who resided in Moreno Valley, saw physicians in Northridge, Perris,
12 Corona, Redlands, Altadena, Moreno Valley, Colton, San Bernardino, and Riverside. During the
13 period that Respondents were filling patient C.A.'s prescriptions, C.A. went to sixteen different
14 doctors to obtain prescriptions for hydrocodone/APAP 7.5/750 and used at least sixteen different
15 pharmacies to fill those prescriptions. Patient C.A. primarily paid cash for the controlled
16 substances that were filled by Respondents.

17 a. On March 18, 2009, Respondents filled RX No. 71561 for 60 tablets of
18 hydrocodone/APAP 7.5/750 for patient C.A., even though patient C.A. received 90 tablets of
19 hydrocodone/APAP 7.5/750 (30 day supply) just nine days prior on March 9, 2009 from another
20 pharmacy. On March 31, 2009, Respondents filled RX No. 72928 for 120 tablets of
21 hydrocodone/APAP 7.5/750 for patient C.A., which was seven days too early from their last fill.
22 Therefore, patient C.A. received a 74 day supply of hydrocodone/APAP 7.5/750 within 22 days.

23 b. On April 20, 2009, Respondents filled RX No. 75015 for 120 tablets of
24 hydrocodone/APAP 7.5/750 for patient C.A., even though patient C.A. received 90 tablets of

25 ¹ "Doctor Shopping" is a term used when a patient uses multiple providers and pharmacies
26 to obtain multiple prescriptions for controlled substances, often without the providers and
27 pharmacies knowing about the other prescriptions. Doctor shopping is against the law.
28 California's primary doctor shopping law is Health and Safety Code section 11173(a) which
prohibits a person from obtaining a prescription by fraud or concealing a material fact.

1 hydrocodone/APAP 7.5/750 (30 day supply) just sixteen days prior on April 4, 2009 from another
2 pharmacy and doctor.

3 c. On June 4, 2009, Respondents filled RX No. 79929 for 90 tablets of
4 hydrocodone/APAP 7.5/750 (30 day supply) for patient C.A. Eight days later on June 12, 2009
5 (and twenty-two days too early), Respondents filled RX No. 80894 for 120 tablets of
6 hydrocodone/APAP 7.5/750 written by a different doctor for patient C.A.

7 d. On July 20, 2009, Respondents filled 90 tablets of hydrocodone/APAP 7.5/750 (23
8 day supply) for patient C.A. Fourteen days later on August 3, 2009, Respondents filled RX No.
9 85573 for 120 tablets of hydrocodone/APAP 7.5/750 (25 day supply) written by another doctor
10 for patient C.A.

11 e. On August 18, 2009, Respondent filled RX No. 86932 for 90 tablets of
12 hydrocodone/APAP 7.5/750 (23 day supply) for this patient. Nine days later on August 27, 2009,
13 Respondent filled RX No. 87959 for 60 tablets of hydrocodone/APAP 7.5/750 (30 day supply)
14 for patient C.A. Twelve days later, on September 8, 2009, Respondents filled RX No. 88956 for
15 120 tablets of hydrocodone/APAP 7.5/750 written by another doctor for patient C.A.

16 **PATIENT RA**

17 29. Patient R.A, who resided in Los Angeles, lived approximately 63 miles from
18 Respondent pharmacy. R.A.'s treating physicians were located in Whittier and Downey,
19 approximately 60 and 50 miles from Respondent pharmacy, respectively. R.A. only paid cash for
20 the controlled substances filled by Respondent.

21 a. On August 7, 2009, Respondents filled RX No. 85992 for 100 tablets of Diazepam 10
22 mg (33 day supply). On September 4, 2009 (and seven days too early), Respondents filled RX
23 No. 88778 for 100 tablets of Diazepam 10 mg (33 day supply) for patient R.A. On October 1,
24 2009, Respondents filled RX No. 91809 for 100 tablets of Diazepam (33 day supply) for patient
25 R.A. On October 29, 2009, Respondents filled RX No. 95054 for 100 tablets of Diazepam for
26 patient R.A. Therefore, Respondent's dispensed a 132 day supply of Diazepam to patient R.A. in
27 a span of 83 days.

28 **PATIENT KB**

1 30. Patient K.B., who resided in San Jacinto, lived approximately 22 miles from
2 Respondent pharmacy and saw physicians in Hemet, Perris, Los Angeles, Long Beach, Redlands,
3 Coachella, Riverside, and Moreno Valley. From October 2009 to January 2012 and during the
4 time that Respondents filled prescriptions for controlled substances for K.B., K.B. travelled to 6
5 different pharmacies and 8 doctors.

6 PATIENT OB

7 31. Patient O.B., who resided in Riverside, saw physicians in Perris, Temecula, Moreno
8 Valley, Murrieta, Orange, Pomona, San Bernardino, Pico Rivera, and San Diego. During the time
9 that Respondents filled prescriptions for controlled substances for O.B., O.B. travelled to 11
10 different pharmacies and 9 doctors. During the time period that Respondents filled prescriptions
11 for O.B., there were multiple instances where O.B. received duplicate therapy from Respondents
12 and other pharmacies.

13 a. On April 13, 2009, Respondents filled RX No. 74204 for 120 tablets of Vicodin ES
14 for patient O.B., even though O.B. had received 100 tablets of Vicodin ES (25 day supply) from a
15 different prescriber at a different pharmacy 12 days prior on April 1, 2009.

16 b. On June 5, 2009, Respondents refilled RX No. 74204 for 120 tablets of Vicodin ES
17 for patient O.B., even though O.B. had received 120 tablets of Vicodin ES (30 day supply) from a
18 different pharmacy just 15 days prior.

19 c. On June 26, 2009, Respondents filled RX No. 74201 for 60 tablets of alprazolam .5
20 mg (30 day supply) for patient O.B. Just five days later on July 1, 2009 (and 25 days too early),
21 Respondents refilled RX No. 74201 for 60 tablets of alprazolam (30 day supply) for patient O.B.
22 Seven days later on July 8, 2009, Respondents filled RX 82560 for 60 tablets of alprazolam for
23 patient O.B.

24 d. On November 16, 2009, Respondents filled RX No. 96915 for 120 tablets of Vicodin
25 ES (30 day supply) for patient O.B. On December 3, 2009 (and twelve days too early),
26 Respondents filled RX No. 98752 for 120 tablets of Vicodin ES (30 day supply) for patient O.B.
27 On December 28, 2009, Respondents filled RX No. 101496 for 120 tablets of Vicodin ES (30 day
28 supply) for patient O.B. On January 18, 2010, Respondents filled RX No. 104031 for 120 tablets

1 of Vicodin ES for patient O.B. Therefore, Respondents dispensed a 120 day supply of Vicodin
2 ES to patient O.B. in a span of 63 days.

3 e. On January 26, 2010, Respondents filled RX No. 105185 for 60 tablets of diazepam
4 10 mg (30 day supply) for patient O.B. and then refilled that prescription for another 60 tablets of
5 diazepam 10 mg (30 day supply) the very next day on January 27, 2010 (twenty-nine days early).

6 f. On May 17, 2010, Respondents filled RX No. 118528 for 120 tablets of Vicodin ES
7 (30 day supply) for patient O.B. and then refilled that prescription for another 120 tablets of
8 Vicodin ES on June 4, 2010 (twelve days early). On June 25, 2010, Respondents filled RX No.
9 122653 for 120 tables of Vicodin ES for patient O.B. (nine days early).

10 g. On September 23, 2010, Respondents filled RX No. 129765 for 180 tablets of
11 Vicodin ES (30 day supply) and then refilled that prescription for another 180 tablets of Vicodin
12 ES the very next day on September 24, 2010 (twenty-nine days early). On October 15, 2010,
13 Respondents refilled RX No. 129765 for 180 tablets of Vicodin ES (30 day supply) for patient
14 O.B. (nine days early). Therefore, Respondents dispensed a 90 day supply of Vicodin ES to
15 patient O.B. over a span of 22 days,

16 h. On October 25, 2010, Respondents filled RX No. 113249 for 60 tablets of diazepam
17 10 mg (30 day supply) for patient O.B., and then refilled that prescription for another 60 tablets of
18 diazepam 10 mg two days later on October 27, 2010 (twenty-eight days early). On November 15,
19 2010, Respondents filled RX No. 135770 for 60 tablets of diazepam 10 mg for patient O.B.
20 (eleven days early). Therefore, Respondents dispensed a 90 day supply of Vicodin ES to patient
21 O.B. within 21 days.

22 i. On May 4, 2011, Respondents filled RX No. 157754 for 180 tablets of Vicodin ES
23 (30 day supply). Twenty days later on May 24, 2011, Respondents refilled RX No. 15774 for 180
24 tablets of Vicodin ES for patient O.B. (ten days early).

25 j. On July 6, 2011, Respondents filled RX No. 162386 for 180 tablets of Vicodin ES
26 (30 day supply) for patient O.B. On July 18, 2011, Respondents filled RX No. 165430 for 150
27 tablets of Vicodin ES for patient O.B. (eighteen days early).

28

1 **PATIENT LB**

2 32. Patient L.B., who resided in Moreno Valley, saw physicians in Compton, Inglewood,
3 San Clemente, Moreno Valley, Rancho Cucamonga, San Bernardino, Yucipa, Riverside,
4 Lakewood, Los Angeles, Long Beach, Studio City, Perris, Northridge, Loma Linda, Corona,
5 Santa Ana, Laguna Beach, Wildomar, and Huntington Beach. During the period that
6 Respondents filled prescriptions for Patient L.B., L.B. travelled to 28 different pharmacies and 39
7 doctors. Respondents also dispensed duplicate pain therapy from different doctors.

8 a. On April 27, 2009, Respondents filled RX No. 75923 for 100 tablets of
9 hydrocodone/APAP 7.5/750 (25 day supply) for patient L.B., and then refilled this prescription
10 seven days later on May 4, 2009 (eighteen days early). Eleven days later on May 15, 2009,
11 Respondents again refilled RX No. 75923 for 100 tablets of hydrocodone/APAP 7.5/750 (25 day
12 supply) for patient L.B. On June 2, 2009, Respondents again refilled RX No. 75923 for 100
13 tablets of hydrocodone/APAP 7.5/750 (25 day supply) for patient L.B. On June 17, 2009,
14 Respondents filled RX No. 81311 for 100 tablets of hydrocodone/APAP 7.5/750 (25 day supply)
15 for patient L.B. Five days later on June 22, 2009, Respondents refilled RX No. 75923 for 100
16 tablets of hydrocodone/APAP 7.5/750 (25 day supply) for patient L.B. Therefore, between April
17 27, 2009 and June 22, 2009 (56 days), Respondents dispensed a 150 day supply of
18 hydrocodone/APAP to this patient.

19 b. On June 23, 2011, Respondents filled RX No. 163041 for 120 tablets of oxycodone
20 30 mg (24 day supply). Fifteen days later on July 8, 2011, Respondents filled RX No. 164458 for
21 240 tablets of oxycodone 30 mg (30 day supply) written by a different doctor, for patient L.B.
22 (fifteen days early).

23 **PATIENT MB**

24 33. Patient M.B., who resided in Moreno Valley, saw physicians in Perris, Los Angeles,
25 Moreno Valley, Redlands, Fontana, Corona, Loma Linda, Lake Elsinore, Hemet, Riverside, San
26 Clemente, and Murrieta. During the period that Respondents were filling prescriptions for
27 controlled substances for patient M.B., M.B. traveled to 11 pharmacies and 27 doctors.
28

1 a. On September 20, 2010, Respondents filled RX No. 125440 for 50 tablets of
2 hydrocodone/APAP 7.5/750 (13 day supply) and then refilled that prescription for another 120
3 tablets of hydrocodone/APAP 7.5/750 just two days later on September 22, 2010 (eleven days
4 early).

5 b. On October 22, 2010, Respondents filled RX No. 133871 for 120 tablets of
6 hydrocodone/APAP 7.5/750 (30 day supply) to patient M.B. On November 15, 2010,
7 Respondents filled RX No. 133871 (30 day supply) for another 120 tablets of hydrocodone/APAP
8 7.5/750 for patient M.B. On December 6, 2010, Respondents filled RX No. 133871 for another
9 120 tablets of hydrocodone/APAP 7.5/750 (30 day supply) for this patient. Therefore,
10 Respondents dispensed a 90 day supply of hydrocodone/APAP 7.5/750 to patient M.B. within 45
11 days.

12 **PATIENT LH**

13 34. Patient L.H., who resided in Moreno Valley, saw physicians in Lake Elsinore,
14 Corona, Perris, Moreno Valley, Fontana, Oklahoma City, Riverside, and Redlands. During the
15 period that Respondents filled controlled substance prescriptions for patient L.H., L.H. traveled to
16 6 different pharmacies and 14 doctors to obtain prescriptions.

17 a. On April 13, 2009, Respondents filled RX No. 74317 for 100 tablets of
18 hydrocodone/APAP 10/325 (20 day supply) for patient L.H. Fifteen days later on April 28, 2009
19 (and five days early), Respondents filled RX No. 76103 for 150 tablets of hydrocodone/APAP
20 10/325, written by a different doctor, for patient L.H.

21 **PATIENT LM**

22 35. Patient L.M., who resided in San Jacinto, saw physicians in Perris, Moreno Valley,
23 Riverside, San Jacinto, Long Beach, West Covina, Coachella, San Bernardino, Banning, and
24 Altadena. During the time that Respondents filled controlled substance prescriptions for patient
25 L.M., L.M. travelled to 13 different pharmacies and 12 doctors to obtain controlled substances.
26 Patient L.M. only paid cash for the controlled substances that were filled by Respondents.

27 a. On February 12, 2009, Respondents filled RX No. 68342 for 120 tablets of
28 acetaminophen #3 with codeine ("Apap #3")(30 day supply) for patient L.M. On March 2, 2009,

1 (and twelve days early), Respondents filled RX No. 70088 for 120 tablets of Apap #3 (30 day
2 supply), written by a different doctor, for patient L.M. Ten days later on March 12, 2009 (and
3 twenty days early), Respondents filled RX No. 71129 for 120 tablets of Apap #3 (30 day supply)
4 for patient L.M. Therefore, Respondents dispensed a 90 day supply of Apap #3 to patient L.M.
5 within 28 days.

6 b. On April 13, 2009, Respondents filled RX No. 73977 for 120 tablets of Apap #3 (30
7 day supply) for patient L.M., even though L.M. received 100 tablets of Apap #3 (33 day supply)
8 from a different pharmacy and a different doctor eight days prior on April 5, 2009. On May 4,
9 2009 (and nine days early), Respondents filled RX No. 76711 for 100 tablets of Apap #3 (20 day
10 supply), written by a different physician, for patient L.M. Therefore, Respondents dispensed an
11 83 day supply of Apap #3 within 29 days.

12 c. On July 19, 2011, Respondents filled RX No. 165693 for 90 tablets of Apap #3 (30
13 day supply) for patient L.M. On August 4, 2011 (and seventeen days early), Respondents refilled
14 RX No. 165693 for 50 tablets of Apap #3 (17 day supply) for patient L.M.

15 **PATIENT KM**

16 36. Patient K.M., who resided in Perris, saw physicians in Downey (approximately 55
17 miles away), Whittier (approximately 55 miles away), Los Angeles (approximately 69 miles
18 away), and Riverside. During the time that Respondents filled controlled substance prescriptions
19 for patient K.M., K.M. travelled to 11 pharmacies and obtained controlled substance prescriptions
20 from 7 doctors. K.M. filled prescriptions for controlled substances at pharmacies in Moreno
21 Valley, Long Beach, Los Angeles, Lynwood, Hawthorne, and Riverside. K.M. only paid cash for
22 the controlled substances filled by Respondents.

23 a. On April 6, 2009, Respondents filled RX No. 71167 for 150 tablets of Apap #4 (25
24 day supply) for patient K.M. Nine days later on April 15, 2009 (and sixteen days early),
25 Respondents filled RX No. 74528 for 150 tablets of Apap #4 for patient K.M.

26 b. On May 14, 2009, Respondents filled RX No. 77996 for 100 tablets of diazepam 10
27 mg (33 day supply) for patient K.M., even though K.M. had received 60 tablets of diazepam 10
28

1 mg (30 day supply) just thirteen days prior on May 1, 2009 from another pharmacy and by
2 another doctor.

3 c. On August 7, 2009, Respondents filled RX No. 85989 for 100 tablets of diazepam 10
4 mg and RX No. 85991 for 120 tablets of hydrocodone/APAP 7.5/750 for patient K.M., even
5 though K.M. received 60 tablets of diazepam 10 mg (30 day supply) and 100 tablets of
6 hydrocodone/APAP 7.5/750 (25 day supply) just ten days prior from another pharmacy and by
7 another doctor on July 28, 2009.

8 d. On November 27, 2009, Respondents filled RX No. 98150 for 100 tablets of
9 diazepam 10 mg and RX No. 98149 for 120 tablets of hydrocodone/APAP 7.5/750 for patient
10 K.M., even though K.M. received 60 tablets of diazepam 10 mg (30 day supply) and 100 tablets
11 of hydrocodone/APAP 7.5/750 (25 day supply) just ten days prior on November 17, 2009.

12 e. On February 16, 2010, Respondents filled RX No. 107700 for 120 tablets of
13 hydrocodone/APAP 7.5/750 (30 day supply) for patient K.M., even though K.M. received a 25
14 day supply of hydrocodone/APAP 7.5/750 just seventeen days prior on January 30, 2010 from
15 another pharmacy and doctor.

16 f. On March 16, 2010, Respondents filled RX No. 111123 for 120 tablets of
17 hydrocodone/APAP 7.5/750 (20 day supply) for patient K.M., even though K.M. received a 25
18 day supply of hydrocodone/APAP 7.5/750 just eighteen days prior on February 26, 2010 from
19 another pharmacy and doctor.

20 g. On October 12, 2010, Respondents filled RX No. 134024 for 150 tablets of
21 hydrocodone/APAP 7.5/750 (25 day supply) for patient K.M., even though K.M. received a 16
22 day supply of hydrocodone/APAP 7.5/750 from another pharmacy just eight days prior on
23 October 4, 2010.

24 h. On December 17, 2010, Respondents filled RX No. 138138 for 100 tablets of
25 hydrocodone/APAP 7.5/750 (25 day supply) for patient K.M., even though K.M. received a 25
26 day supply of hydrocodone/APAP 7.5/750 from another pharmacy just fourteen days prior on
27 December 3, 2010.

28

1 i. On March 16, 2011, Respondents filled RX No. 154042 for 100 tablets of
2 hydrocodone/APAP 7.5/750 (25 day supply) for patient K.M., even though K.M. received a 25
3 day supply of hydrocodone/APAP 7.5/750 from another pharmacy just eleven days prior on
4 March 5, 2011.

5 **PATIENT CR**

6 37. Patient C.R., who resides in Sun City, saw physicians in Moreno Valley, Los
7 Angeles, Perris, Murrieta, Loma Linda, Lake Elsinore, and Temecula. During the period that
8 Respondents filled controlled substance prescriptions for patient C.R., C.R. travelled to 13
9 different pharmacies and obtained controlled substance prescriptions from 8 doctors.

10 a. On April 7, 2010, Respondents filled RX No. 114029 for 60 tablets of alprazolam 2
11 mg (30 day supply) for patient C.R. Nine days later on April 16, 2010 (and twenty one days
12 early), Respondents filled RX No. 115176 for 60 tablets of alprazolam 2 mg, written by a
13 different physician, for patient C.R.

14 b. On May 5, 2010, Respondents filled RX No. 117060 for 60 tablets of alprazolam (30
15 day supply) for patient C.R. Twelve days later on May 17, 2011 (and eighteen days early),
16 Respondents filled RX No. 118482 for 60 tablets of alprazolam (30 day supply), written by a
17 different physician, for patient C.R. On June 4, 2010, Respondents filled RX No. 120605 for 60
18 tablets of alprazolam 2 mg (30 day supply) for patient C.R. That same day, on June 4, 2010,
19 Respondents filled another prescription (RX No. 120685) for 60 tablets of alprazolam 2 mg (30
20 day supply), written by a different doctor, for patient C.R. Therefore, Respondents dispensed a
21 180 day supply of alprazolam to patient C.R. within 58 days.

22 c. On April 13, 2011, Respondents filled RX No. 155302 for 60 tablets of alprazolam
23 (30 day supply) for patient C.R. Nine days later on April 22, 2011, Respondents filled RX No.
24 155302 for another 60 tablets of alprazolam (30 day supply) for patient C.R. (twenty-one days
25 early).

26 d. On June 29, 2011, Respondents filled RX No. 163622 for 90 tablets of alprazolam
27 (30 day supply) for patient C.R. Fifteen days later on July 14, 2011, Respondents filled RX No.
28 165159 for 60 tablets of alprazolam (30 day supply) for patient C.R. (fifteen days early).

1 e. On June 11, 2012, Respondents filled RX No. 110250 for 90 tablets of carisoprodol
2 350 mg (30 day supply) for patient C.R. Eight days later on June 19, 2012, Respondents refilled
3 RX No. 110250 for another 90 tablets of carisoprodol 350 mg (30 day supply). Eight days later
4 on June 27, 2012, Respondents filled RX. No. 111144 for another 90 tablets of carisoprodol 350
5 mg (30 day supply). Therefore, Respondents dispensed a 90 day supply carisoprodol 350 mg to
6 patient C.R. within 16 days.

7 f. On July 24, 2012, Respondents filled RX No. 112438 for 90 tablets of carisoprodol
8 350 mg (30 day supply) for patient C.R. On August 15, 2012, Respondents refilled RX No.
9 12438 for 90 tablets of carisoprodol 350 mg (30 day supply). Twelve days later on August 27,
10 2012, Respondents filled RX No. 114067 for another 90 tablets of carisoprodol 350 mg (30 day
11 supply). Therefore, Respondents dispensed a 90 day supply of carisoprodol 350 mg to patient
12 C.R. within 34 days.

13 **PATIENT SS**

14 38. Patient S.S., who resided in Moreno Valley, saw physicians in Downey
15 (approximately 60 miles away), Los Angeles (approximately 65 miles away), Huntington Park
16 (approximately 65 miles away), Riverside, and Murrieta. Patient S.S. filled prescriptions for
17 controlled substances at pharmacies in Long Beach, Compton, Gardena, Moreno Valley, and
18 Riverside. During the period that Respondents filled controlled substance prescriptions for
19 patient S.S., S.S travelled to five different pharmacies and obtained controlled substance
20 prescriptions from twelve doctors.

21 a. On December 16, 2010, Respondents filled RX No. 141154 for 90 tablets of
22 hydrocodone/APAP 7.5/750 (45 day supply) to patient S.S., and then refilled this prescription for
23 another 90 tablets of hydrocodone/APAP 7.5/750 (45 day supply) nine days early on January 21,
24 2011. On February 8, 2011, (and twenty-seven days early), Respondents refilled RX No. 141154
25 again for 90 tablets of hydrocodone/APAP 7.5/750 (45 day supply) for patient S.S. Therefore,
26 within 54 days, Respondents dispensed 135 day supply of hydrocodone/APAP to patient S.S.

27 b. On December 14, 2011, Respondents filled RX No. 172964 for 60 tablets of
28 hydrocodone/APAP 7.5/750 (30 day supply). Eight days later on December 22, 2011 (and

1 twenty-two days early), Respondents filled RX No. 183220 for 90 tablets of hydrocodone/APAP
2 7.5/750 for patient S.S.

3 c. On January 20, 2012, Respondents filled RX No. 185717 for 90 tablets of
4 hydrocodone/APAP 7.5/750 (30 day supply) for patient S.S. On February 8, 2012 (and twelve
5 days early), Respondents filled RX No. 187494 for 120 tablets of hydrocodone/APAP 7.5/750,
6 written by a different physician, for patient S.S.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Failure to Implement Corresponding Responsibility)**

9 39. Respondents are subject to disciplinary action for unprofessional conduct under Code
10 section 4301, subdivision (j), for violation of Health and Safety Code section 11153, subdivision
11 (a), in that Respondents failed to comply with their corresponding responsibility to ensure that
12 controlled substances are dispensed for a legitimate medical purpose. The circumstances are that
13 Respondents failed to evaluate the totality of the circumstances (information from the patient,
14 physician, CURES and other sources) to determine the prescriptions' were issued for a legitimate
15 medical purpose in light of information showing that several patients demonstrated drug seeking
16 behaviors such as doctor and pharmacy shopping, patients had addresses outside Respondents'
17 normal trade area, patients saw providers outside Respondents' normal trade area, patients from
18 out of the area came in groups from the same out of area doctor for only controlled substances,
19 having no personal knowledge about prescribers' practice or patients' treatment histories, among
20 other things, as set forth in paragraphs 23 through 38, which are incorporated herein by reference.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Filling of Erroneous or Uncertain Prescriptions)**

23 40. Respondents are subject to disciplinary action for unprofessional conduct under Code
24 section 4301, subdivision (o), for unprofessional conduct as it relates to California Code of
25 Regulations section 1761, in that Respondents dispensed prescriptions which contained
26 significant errors, irregularities, uncertainties, or ambiguities, as set forth in paragraphs 23
27 through 38, which are incorporated herein by reference.

28

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Excessive Furnishing of Controlled Substances)**

3 41. Respondents are subject to disciplinary action for unprofessional conduct under Code
4 section 4301, subdivision (d), for unprofessional conduct in that Respondents clearly excessively
5 furnished controlled substances to patients, as set forth in paragraphs 23 through 38, which are
6 incorporated herein by reference.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct – Assisting/Abetting the Violation of State Law)**

9 42. Respondents are subject to disciplinary action for unprofessional conduct under Code
10 section 4301, subdivision (o), for unprofessional conduct in that Respondents assisted in or
11 abetted doctor-shopping patients in obtaining controlled substance prescriptions by fraud, deceit,
12 misrepresentation, or subterfuge, or by concealment of a material fact in violation of Health and
13 Safety Code section 11173(a), as set forth in paragraphs 23 through 38, which are incorporated
14 herein by reference.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Gross Negligence)**

17 43. Respondent Gerges is subject to disciplinary action for unprofessional conduct under
18 Code section 4301, subdivision (c), in that Respondent was grossly negligent in dispensing
19 controlled substances. The circumstances are that Respondent knew or should have known that
20 the controlled substances prescribed were likely to be used for other than a legitimate medical
21 purpose and Respondent failed to take appropriate steps when presented with numerous
22 prescriptions for controlled substances from doctor-shopping patients, patients residing outside
23 Respondent's normal trade area, patients seeking early refills of controlled substances, and/or
24 patients seeking to fill prescriptions written by prescribers outside Respondent's normal trade
25 area. Respondent failed to perform additional investigation to determine whether the
26 prescriptions were issued for a legitimate medical purpose, as set forth in paragraphs 23 through
27 38, which are incorporated herein by reference.

1 2. Revoking or suspending Pharmacist License Number RPH 45091, issued to Raafat
2 George Gerges;

3 3. Prohibiting Daniel's Pharmacy from serving as a manager, administrator, owner,
4 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
5 Number PHY 47339 is placed on probation or until Pharmacy Permit Number PHY 47339 is
6 reinstated if Pharmacy Permit Number PHY 47339 issued to Daniel's Pharmacy is revoked;

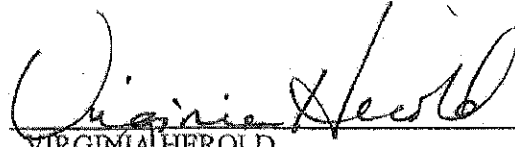
7 4. Prohibiting Raafat George Gerges from serving as a manager, administrator,
8 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist
9 License Number RPH 45091 is placed on probation or until Pharmacist License Number RPH
10 45091 is reinstated if Pharmacist License Number RPH 45091 issued to Raafat George Gerges is
11 revoked;

12 5. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3;

15 6. Taking such other and further action as deemed necessary and proper.
16
17

18 DATED: _____
19

5/12/15



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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